

JUSTIFICATION SHEET

FINAL

DEPARTMENT: Labor and Industrial Relations

TITLE: A BILL FOR AN ACT RELATING TO THE EMPLOYMENT SECURITY LAW.

PURPOSE: The purpose of this bill is to conform to the provisions of P.L. 108-295, SUTA (state unemployment tax acts) Dumping Prevention Act of 2004 signed by the President on August 9, 2004. The new law amends Title III of the Social Security Act (SSA) to improve the administration of unemployment taxes and eliminate the practice of SUTA dumping whereby some employers and financial advisors have found ways such as merger, acquisition or restructuring schemes, including shifting of workforce and payroll, in order to pay lower state unemployment taxes than their unemployment experience would normally allow. The new law also requires states to provide meaningful penalties with the effect of curtailing SUTA dumping.

MEANS: Amend sections 383-66, 383-142, and 383-143, Hawaii Revised Statutes (HRS).

JUSTIFICATION: This amendment is needed because the new federal law requires states to enact laws to prohibit SUTA dumping and provide meaningful penalties as a condition of states receiving administration grants for their unemployment insurance program. Without this statutory change, the state unemployment insurance (UI) law will be out of compliance with the SSA requirements and the State will lose its federal certification. As a consequence, all employers will no longer enjoy the Federal Unemployment Tax Act (FUTA) tax offset credit and the State will lose its federal administrative grants to operate the UI program in Hawaii.

Impact on the public: If Hawaii loses its federal administrative grant, all UI offices will shutdown and unemployed workers would be unable to file for unemployment insurance benefits unless state funds are available to continue operations. In addition, employers

would be subject to higher federal payroll taxes.

Impact on the department and other agencies:

The new law also provides that the department will take steps to establish procedures to detect SUTA dumping practices.

Investigations must be conducted and cases prosecuted by the Attorney General's Office if warranted.

GENERAL FUND: None.

OTHER FUNDS: Federal.

PPBS PROGRAM
DESIGNATION: LBR-171.

OTHER AFFECTED
AGENCIES: Department of the Attorney General.

EFFECTIVE DATE: Upon approval.